

July 17, 2009

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
July 17, 2009

I. OPENING OF MEETING AT 11:15 A.M. AT 160 NORTH LASALLE STREET,
CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman (via telephone); Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba (via telephone), and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Courtney O'Connell, Illinois Department of Central Management Services; and Michael McRaith and Tim Cena, Illinois Department of Insurance.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD JUNE 19, 2009

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD JUNE 19, 2009.

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	159.....	9
Agriculture	442.....	17
Arts Council.....	21.....	2
Capitol Development Board	44.....	0
Central Management Services	1,492.....	119
Children and Family Services	3,125.....	49
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	434.....	70
Commerce Commission.....	72.....	0
Corrections.....	11,520.....	116
Criminal Justice Authority	56.....	6
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	11.....	1
Emergency Management Agency	95.....	6
Employment Security.....	1,814.....	25
Environmental Protection Agency	961.....	19
Financial & Professional Regulation	740.....	50
Guardianship and Advocacy	109.....	8
Healthcare and Family Services.....	2,412.....	28
Historic Preservation Agency	189.....	12
Human Rights Commission	14.....	2
Human Rights Department	148.....	10
Human Services	14,076.....	77
Investment Board.....	3.....	2
Juvenile Justice	1,177.....	20
Labor.....	80.....	7
Labor Relations Board Educational	12.....	2
Labor Relations Board State	19.....	2
Law Enforcement Training & Standards Bd.....	21.....	1
Medical District Commission	2.....	0
Military Affairs	126.....	3
Natural Resources	1,382.....	24
Pollution Control Board.....	19.....	2
Prisoner Review Board	20.....	0
Property Tax Appeal Board	25.....	1
Public Health.....	1,136.....	44
Revenue	2,096.....	70
State Fire Marshal.....	145.....	13
State Police	1,396.....	6
State Police Merit Board.....	6.....	1
State Retirement Systems	80.....	2
Transportation.....	2,352.....	0
Veterans' Affairs.....	1,132.....	7
Workers' Compensation Commission	168.....	10
TOTALS	49,342.....	844

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 - 1. The Governor, or
 - 2. A departmental director or assistant director appointed by the Governor, or
 - 3. A board or commission appointed by the Governor, or
 - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.

- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board, or commission.
 - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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C. Request for 4d(3) Exemption Rescission

- Regarding Item C, Executive Director Daniel Stralka reported that the position up for rescission was agreed to by the agency at the June 19, 2009 meeting when it received approval for a Legislative Director position.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO RESCIND THE 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

Agenda Item	Agency	Position Number	Functional Title
C	Insurance	37015-14-02-100-00-01	Legislative Liaison

This position was transferred from the Illinois Department of Financial and Professional Regulation to the Illinois Department of Insurance as of July 1, 2009. In addition, its position number was changed from 37015-13-04-300-00-01 to 37015-14-02-100-00-01 at that time.

V. CLASS SPECIFICATIONS

- **None submitted**

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

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VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 11:31 a.m.

PRESENT

Chris Kolker, Chairman (via telephone); Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba (via telephone) and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e. emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	5/31/09	6/30/09	6/30/08
Aging	1	0	0
Agriculture	0	1	1
Arts Council	0	0	0
Central Management Services	1	2	6
Children and Family Services	12	12	12
Criminal Justice Authority	1	1	0
Employment Security	4	6	2
Healthcare and Family Services	16	16	16
Historic Preservation	0	0	2
Human Services	1	1	4
Law Enforcement Training Standards Board	1	1	0
Natural Resources	0	15	25
Property Tax Appeal Board	1	2	1
Revenue	0	1	0
State Police	0	0	1
Transportation	3	3	6
Veteran's Affairs	1	1	3
Workers' Compensation Commission	1	1	1
Totals	43	63	80

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IX. INTERLOCUTORY APPEAL

• DISCHARGE

DA-22-09

Employee	Maria E. Madera	Appeal Date	7/30/08
Agency	DHS	Decision Date	7/02/09
Type	Discharge	ALJ	Andrew Barris
Issue	Motion to Dismiss for no jurisdiction	Recommended Decision	Grant Motion to Dismiss; no jurisdiction (not filed within 15 days of receipt of charges).

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED THAT THE ADMINISTRATIVE LAW JUDGE FOUND A QUESTION OF LAW, FACT, OR POLICY WHICH IF RESOLVED BY THE COMMISSION WOULD MATERIALLY ADVANCE THE RESOLUTION OF THE DISPUTE. THE COMMISSION FURTHER FINDS THAT MADERA DID NOT FILE HER APPEAL WITH THE COMMISSION WITHIN 15 DAYS OF SERVICE OF THE CHARGES AND THE CIVIL SERVICE COMMISSION IS WITHOUT JURISDICTION TO HEAR HER DISCHARGE APPEAL. IN ACCORDANCE THEREWITH, THE DECISION OF THE ADMINISTRATIVE LAW JUDGE TO GRANT THE MOTION TO DISMISS IS AFFIRMED AND ADOPTED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

X. PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL

• DISCHARGE

DA-2-09

Employee	Charles E. Yelm, Jr.	Appeal Date	7/11/08
Agency	DOC	Decision Date	7/02/09
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming	Recommended Decision	Charges are partially proven and warrant discharge.

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IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE ARE PARTIALLY PROVEN AND DO WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION DATED JULY 2, 2009.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

- **SUSPENSION**

S-49-08

Employee	Richard D. McNichols	Appeal Date	5/27/08
Agency	DNR	Decision Date	7/02/09
Type	Suspension	ALJ	Daniel Stralka
Charge(s)	Worked overtime without prior authorization, failure to care for and maintain equipment, failure to submit reports, and unauthorized absences	Recommended Decision	Charges are proven and warrant 30-day suspension.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR A 30-DAY SUSPENSION (TOTALING MORE THAN 30 DAYS IN A 12-MONTH PERIOD) HAVE BEEN PROVEN AND DO WARRANT SAID SUSPENSION FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

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XI. APPEALS DISPOSED OF WITHOUT DECISION ON THE MERITS

DA-41-09

Employee	Reginald Hardaway	Appeal Date	5/29/09
Agency	DOC	Decision Date	6/23/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Failure to submit reports within required time limits; conduct unbecoming	Recommended Decision	Dismissed subject to Commission approval; withdrawn.

DA-42-09

Employee	Edrena Scott	Appeal Date	6/01/09
Agency	DHS	Decision Date	6/24/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Conduct unbecoming	Recommended Decision	Dismissed subject to Commission approval; default (no show at hearing).

GT-44-09

Employee	William Disselhorst	Appeal Date	6/12/09
Agency	FPR	Decision Date	7/06/09
Type	Geographical Transfer	ALJ	Daniel Stralka
Allegation	Transferred from JRTC to Des Plaines	Recommended Decision	Dismissed subject to Commission approval; withdrawn.

GT-46-09

Employee	Ronald P. Martin	Appeal Date	6/17/09
Agency	FPR	Decision Date	7/06/09
Type	Geographical Transfer	ALJ	Daniel Stralka
Allegation	Transferred from JRTC to Des Plaines	Recommended Decision	Dismissed subject to Commission approval; withdrawn.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISIONS TO DISMISS THE APPEALS OF REGINALD HARDAWAY, EDRENA SCOTT, WILLIAM DISSELHORST, AND RONALD P. MARTIN.

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KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

XII. REPORT ON THE TREATMENT OF PRIOR DISCIPLINARY INCIDENTS WHICH ARE THE SUBJECT OF PENDING GRIEVANCES

It was the consensus of the Commissioners that this matter be carried over until the August 21, 2009 meeting.

XIII. STAFF REPORT

Executive Director Daniel Stralka reported that:

- SB1333 did not come up for a vote in the Senate prior to adjournment.
- He and Beckie Daniken attended an entrance conference with five representatives of the Auditor General's office with respect to the performance audit of Section 4d(3) exemptions called for in HR0140. The entrance conference was for the auditor General's staff to explain the process of a performance audit and for Commission staff to introduce them to the exemption process. Subsequent progress notes will be included in future staff reports.
- The Commission's fiscal year 2010 appropriation was approved and it was essentially the same as what was introduced. Retirement is no longer included as a line item. Even striking that line item, the Commission's fiscal year 2010 appropriation represents a three percent decrease from fiscal year 2009. In addition, it is anticipated that all staff will be asked to take 12 furlough days over the course of the fiscal year.

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, August 21, 2009 at 11:00 a.m. in the Commission's Chicago office.

XV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 11:35 P.M.